

Regular Session, 2014

SENATE BILL NO. 298

BY SENATOR DORSEY-COLOMB

LESSOR/LESSEE. Provides relative to lease. (8/1/14)

1 AN ACT
2 To amend and reenact R.S. 9:3251 and 3252 and R.S. 40:506, Civil Code Articles 2694 and
3 2726, and Code of Civil Procedure Articles 4701 and 4733, and to enact R.S. 9:3262,
4 relative to lease; to provide relative to lease agreements and parties; to provide
5 relative to lease terms and conditions; to provide relative to leasing by housing
6 authorities; to provide certain requirements, conditions, procedures, and effects; to
7 provide relative to repairs of leased property; to provide relative to rent; to provide
8 relative to termination of lease; to provide relative to certain lessees and tenants who
9 are victims of domestic abuse, dating violence, and family violence; and to provide
10 for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 9:3251 and 3252 are hereby amended and reenacted and R.S. 9:3262
13 is hereby enacted to read as follows:

14 §3251. Lessee's deposit to secure lease; retention by lessor; conveyance of leased
15 premises; itemized statement by lessor

16 A. Any advance or deposit of money furnished by a tenant or lessee to a
17 landlord or lessor to secure the performance of any part of a written or oral lease or

1 rental agreement shall be returned to the tenant or lessee of residential or dwelling
2 premises within ~~one month~~ **fourteen days** after the lease shall terminate, except that
3 the landlord or lessor may retain all or any portion of the advance or deposit which
4 is reasonably necessary to remedy a default of the tenant or to remedy unreasonable
5 wear to the premises. If any portion of an advance or deposit is retained by a landlord
6 or lessor, he shall forward to the tenant or lessee, within ~~one month~~ **fourteen days**
7 after the date the tenancy terminates, an itemized statement accounting for the
8 proceeds which are retained and giving the reasons therefor. The **lessor shall make**
9 **an oral or written request, and the** tenant shall furnish the lessor, a forwarding
10 address **or an alternate temporary mailing address** at the termination of the lease,
11 to which such statements may be sent. **If the lessor fails to receive a response**
12 **from the lessee within thirty days from such request, the lessor may remove the**
13 **deposit from the account and retain it free from any claim of the tenant or any**
14 **person claiming on the tenant's behalf.**

15 B. In the event of a transfer of the lessor's interest in the leased premises
16 during the term of a lease, the transferor shall also transfer to his successor in interest
17 the sum deposited as security for performance of the lease and the transferor shall
18 then be relieved of further liability with respect to the security deposit. The
19 transferee shall be responsible for the return of the lessee's deposit at the termination
20 of the lease, as set forth in Subsection A of this Section.

21 C. Paragraph A of this Section shall not apply when the tenant abandons the
22 premises, either without giving notice as required or prior to the termination of the
23 lease.

24 **D.(1) Any landlord or lessor of residential property requiring an advance**
25 **or deposit of money to be furnished by a tenant or lessee prior to occupancy as**
26 **provided for in this Section shall deposit all tenants' security deposits in an**
27 **account used only for that purpose, in any bank or other lending institution**
28 **subject to regulation by the state of Louisiana or any agency of the United**
29 **States government.**

1 (2) No landlord shall be entitled to retain any portion of such an advance
 2 or deposit of money if that advance or deposit of money was not deposited in an
 3 account as required by this Subsection and an itemized statement of damages
 4 is not provided as required by this Section.

5 (3) Should a tenant or lessee vacate the premises with unpaid rent or
 6 other amounts due and owing, the landlord or lessor may remove the deposit
 7 from the account and apply the monies to the unpaid debt.

8 (4) All landlords or lessors of residential property shall be required to
 9 notify their tenants or lessees at the time such persons sign the lease and submit
 10 an advance or deposit of money to secure the performance of any part of the
 11 lease or rental agreement, of the location of the separate account required to be
 12 maintained pursuant to this Section, but shall not be required to provide the
 13 account number to such persons, nor shall they be required to provide such
 14 information to a person who is a prospective tenant.

* * *

§3252. Damages; venue

A. The willful failure to comply with R.S. 9:3251 shall give the tenant or lessee the right to recover ~~actual damages or two hundred dollars~~ **damages in an amount equal to twice the amount of the wrongfully withheld advance or deposit** ~~whichever is greater~~, from the landlord or lessor, or from the lessor's successor in interest. Failure to remit within ~~thirty days after written demand for a refund~~ **fourteen days after the date the lease terminates** shall constitute willful failure.

B. An action for the recovery of such damages may be brought in the parish of the lessor's domicile or in the parish where the property is situated.

* * *

§3262. Right to terminate lease in domestic abuse cases

A. A tenant or lessee who provides written notice to the lessor that such tenant or lessee or their child may be a victim of domestic abuse, dating

1 violence, or family violence from a named person if the tenant or lessee or their
2 child remains on the leased premises shall thereafter be relieved from any
3 further obligations under a residential lease agreement if the written notice
4 provided to the lessor includes any of the following:

5 (1) A certified copy of a protective order or injunction issued after a
6 contradictory hearing that protects the tenant or lessee or their child from the
7 person named in the written notice.

8 (2) A certified copy of a protective order or injunction from another
9 jurisdiction, issued pursuant to that jurisdiction's laws relating to domestic
10 violence, that protects the tenant or lessee or their child from the person named
11 in the written notice.

12 (3) A law enforcement agency record documenting the domestic abuse,
13 dating violence, or family violence or certifying that the tenant or lessee or their
14 child is a victim of domestic abuse, dating violence, or family violence.

15 (4) Medical documentation provided by a health care provider of the
16 domestic abuse, dating violence, or family violence.

17 (5) Certification provided by a domestic violence service provider or the
18 director of a designated domestic violence agency that the tenant or lessee or
19 their child is a victim of domestic abuse, dating violence, or family violence.

20 (6) Documentation or certification provided by a licensed social worker
21 that the tenant or lessee or their child is a victim of domestic abuse, dating
22 violence, or family violence.

23 B. No advance written notice to a lessor of termination shall be required
24 for a lease terminating pursuant to the provisions of Subsection (A) of this
25 Section, nor shall such termination constitute grounds for a complaint or action
26 by the lessor or any credit bureau or collection agency for any amounts or
27 penalties or damages claimed due to such termination.

28 C. A tenant fulfilling the requirements of Subsection (A) of this Section
29 is entitled to the full return of any security deposit, if the tenant has otherwise

1 **complied with the requirements of the lease. However, a lessor may retain all**
2 **or any portion of the security deposits that is reasonably necessary to remedy**
3 **unreasonable wear or damage to the premises.**

4 * * *

5 Section 2. R.S. 40:506 is hereby amended and reenacted to read as follows:

6 §506. Termination of tenancy

7 * * *

8 D.(1) The local housing authority may not terminate the tenancy of a
9 household or a resident or terminate any other assistance provided by the authority
10 under Paragraph (B)(1) of this Section for reasons of domestic abuse, dating
11 violence, or family violence committed against the head of household, a member of
12 household, or a resident. The local housing authority may terminate the tenancy of
13 or any other assistance provided to the perpetrator of the domestic abuse, dating
14 violence, or family violence. **The local housing authority shall allow a tenant to**
15 **transfer to another available and safe dwelling unit administered by the local**
16 **housing authority if the tenant or lessee or their child is a victim of domestic**
17 **abuse, dating violence, or family violence, and if the tenant:**

18 **(a) Expressly requests the transfer; and**

19 **(b) Is threatened with domestic abuse, dating violence, or family**
20 **violence if the tenant or lessee or their child remains within the same dwelling**
21 **unit administered by the local housing authority; and**

22 **(c) Provides the housing authority with any of the following:**

23 **(i) A certified copy of a protective order or injunction, issued after a**
24 **contradictory hearing, that protects the tenant or lessee or their child from the**
25 **person named in the written notice.**

26 **(ii) A certified copy of a protective order or injunction from another**
27 **jurisdiction, issued pursuant to the jurisdiction's law relating to domestic**
28 **violence that protects the tenant or lessee or their child from the person named**
29 **in the written notice.**

1 **(iii) A law enforcement agency record documenting the domestic abuse,**
 2 **dating violence, or family violence or certifying that the tenant or lessee or their**
 3 **child is a victim of domestic abuse, dating violence, or family violence.**

4 **(iv) Medical documentation provided by a health care provider of the**
 5 **domestic abuse, dating violence, or family violence.**

6 **(v) Certification provided by a domestic violence service provider or the**
 7 **director of a designated domestic violence agency that the tenant or lessee or**
 8 **their child is a victim of domestic abuse, dating violence, or family violence.**

9 **(vi) Other documentation or certification provided by a licensed social**
 10 **worker that the tenant or lessee or their child is a victim of domestic abuse,**
 11 **dating violence, or family violence.**

12 **(2) The local housing authority shall maintain reasonable confidentiality**
 13 **measures to ensure that the location of the dwelling unit of a tenant or lessee or**
 14 **their child is not disclosed to the person the tenant identifies to the local housing**
 15 **authority at the time the transfer is requested as having been the person who**
 16 **committed an act of domestic abuse, dating violence, or family violence against**
 17 **the tenant or lessee or their child.**

18 ~~(2)~~**(3)** For purposes of Paragraph (B)(1) of this Section, no person may be
 19 considered a guest or invitee of a member of a household without the consent of the
 20 head of household or a member of household. Consent is automatically withdrawn
 21 when a guest or invitee is a perpetrator of an act of domestic abuse, dating violence,
 22 or family violence.

23 ~~(3)~~**(4)** As used in this Subsection:

24 (a) "Domestic abuse" has the meaning as defined in R.S. 46:2132(3).

25 (b) "Dating violence" has the meaning as defined in R.S. 46:2151(C).

26 (c) "Family violence" has the meaning as defined in R.S. 9:362(3).

27 Section 3. Civil Code Articles 2694 and 2726 are hereby amended and reenacted to
 28 read as follows:

29 Art. 2694. Lessee's right to make repairs

1 **(A)** If the lessor fails to perform his obligation to make necessary repairs
2 within a reasonable time after demand by the lessee, the lessee may cause them to
3 be made. The lessee may demand immediate reimbursement of the amount expended
4 for the repair or apply that amount to the payment of rent, but only to the extent that
5 the repair was necessary and the expended amount was reasonable.

6 **(B)** **For the purposes of this Article, fourteen days shall constitute a**
7 **reasonable time generally to make necessary repairs, and five days shall**
8 **constitute a reasonable time if the repairs arise from a failure of the lessor to**
9 **perform his obligation to provide essential services such as heat, air**
10 **conditioning, hot and cold running water, plumbing or electricity. Repairs**
11 **necessary to resolve or prevent a serious threat to the health or safety of the**
12 **lessee or other occupant of the leased premises shall be performed promptly by**
13 **the lessor.**

14 **(C)** **If the lessor fails to make the necessary repairs and their cost is less**
15 **than one month's rent, the lessee may notify the lessor of his intent to make the**
16 **repairs at the lessor's expense. If the lessor fails to perform his obligation**
17 **within the reasonable time provided by this Article, the lessee may cause the**
18 **necessary repairs to be made and provide a statement to the lessor of the**
19 **reasonable amount expended. The cost of such expended amounts shall not**
20 **exceed the sum of one month's rent during any twelve-month period.**

21 * * *

22 Art. 2726. Amendment

23 An amendment to a provision of the lease contract that is made without an
24 intent to effect a novation does not create a new lease. **In a month-to-month**
25 **residential lease, a change in the amount of rent shall be considered a**
26 **substantial modification of the lease contract and not enforceable against the**
27 **lessee unless the lessee consents in writing.**

28 Section 4. Code Civ. Proc. Arts. 4701 and 4733 are hereby amended to read as
29 follows:

1 Art. 4701. Termination of lease; notice to vacate; waiver of notice

2 When a lessee's right of occupancy has ceased because of the termination of
3 the lease by expiration of its term; ~~or~~ action by the lessor, ~~or~~ nonpayment of rent, ~~or~~
4 ~~for any other reason~~, and the lessor wishes to obtain possession of the premises, the
5 lessor or his agent shall cause written notice to vacate the premises to be delivered
6 to the lessee. The notice shall allow the lessee not less than ~~five days~~ **thirty days**
7 from the date of its delivery to vacate the leased premises.

8 **The lessor may terminate the lease if there has been substantial**
9 **noncompliance by the lessee with the terms of the lease, including the**
10 **commission of unlawful acts, and the lessee has not remedied the noncompliance**
11 **within fourteen days after written notice from the lessor specifying the**
12 **noncompliance and providing that termination of the lease will occur not less**
13 **than thirty days after receipt of the notice.**

14 If the lease has no definite term, the notice required by law for its termination
15 shall be considered as a notice to vacate under this Article. If the lease has a definite
16 term, notice to vacate may be given not more than thirty days before the expiration
17 of the term.

18 **A lessor may terminate a lease, without giving the lessee an opportunity**
19 **to remedy a noncompliance, by giving the lessee written notice that the lease will**
20 **terminate on a specified date not less than fourteen days after receipt of the**
21 **notice in the following circumstances: (1) the noncompliance is for nonpayment**
22 **of rent and the tenant failed to pay rent in a timely manner on at least two**
23 **occasions within any consecutive four-month period; or (2) the noncompliance**
24 **is substantially the same act or omission that constituted a prior noncompliance,**
25 **other than for nonpayment of rent, for which notice under this Article had been**
26 **sent within six months preceding the latest noncompliance.**

27 A lessee may waive the notice requirements of this Article by written waiver
28 contained in the lease, in which case, upon termination of the lessee's right of
29 occupancy for any reason, the lessor or his agent may immediately institute eviction

termination of the lease by expiration of its term, action by the lessor, nonpayment of rent, or for any other reason, and the lessor wishes to obtain possession of the premises, the lessor or his agent shall cause written notice to vacate the premises to be delivered to the lessee. Further provides that the notice shall allow the lessee not less than five days from the date of its delivery to vacate the leased premises.

Proposed law provides that when a lessee's right of occupancy has ceased because of the termination of the lease by expiration of its term or action by the lessor or nonpayment of rent, and the lessor wishes to obtain possession of the premises, the lessor or his agent shall cause written notice to vacate the premises to be delivered to the lessee. Proposed law further provides that the notice shall allow the lessee not less than 30 days from the date of its delivery to vacate the leased premises.

Proposed law provides that the lessor may terminate the lease if there has been substantial noncompliance by the lessee with the terms of the lease, including the commission of unlawful acts, and the lessee has not remedied the noncompliance within 14 days after written notice from the lessor specifying the noncompliance and providing that termination of the lease will occur not less than 30 days after receipt of the notice.

Present law provides that if the lease has no definite term, the notice required by law for its termination shall be considered as a notice to vacate under present law, and further provides that if the lease has a definite term, notice to vacate may be given not more than 30 days before the expiration of the term.

Proposed law retains present law.

Proposed law provides that a lessor may terminate a lease without giving the lessee an opportunity to remedy a noncompliance by giving the lessee written notice that the lease will terminate on a specified date not less than 14 days after receipt of the notice in the following circumstances:

- (1) the noncompliance is for nonpayment of rent and the tenant failed to pay rent in a timely manner on at least two occasions within any consecutive four-month period;
or
- (2) the noncompliance is substantially the same act or omission that constituted a prior noncompliance, other than for nonpayment of rent, for which notice under proposed law had been sent within six months preceding the latest noncompliance.

Present law provides that a lessee may waive the notice requirements of present law by written waiver contained in the lease, in which case, upon termination of the lessee's right of occupancy for any reason, the lessor or his agent may immediately institute eviction proceedings in accordance with present law.

Proposed law repeals present law.

Present law provides that if the lessee or occupant does not comply with the judgment of eviction within 24 hours after its rendition, the court shall issue immediately a warrant directed to and commanding its sheriff, constable, or marshal to deliver possession of the premises to the lessor or owner.

Proposed law provides that if the lessee or occupant does not comply with the judgment of eviction within not less than three and not more than five days after its rendition, the court shall issue immediately a warrant directed to and commanding its sheriff, constable or marshal to deliver possession of the premises to the lessor or owner.

Present law provides that security deposits provided by a tenant or lessee to a landlord or lessor to secure the performance of any part of a written or oral lease or rental agreement

shall be returned to the tenant or lessee of residential or dwelling premises within one month after the lease shall terminate, except that the landlord or lessor may retain all or any portion of the advance or deposit which is reasonably necessary to remedy a default of the tenant or to remedy unreasonable wear to the premises.

Proposed law retains present law, except that it changes the time period for return of the security deposit to within 14 days after the lease shall terminate.

Present law provides that if any portion of a security deposit is retained by a landlord or lessor, he shall forward to the tenant or lessee, within one month after the date the tenancy terminates, an itemized statement accounting for the proceeds which are retained and giving the reasons therefor.

Proposed law retains present law, except that it changes the time period for the landlord to forward to the tenant or lessee an itemized statement accounting for the proceeds retained from one month to within 14 days after the date the tenancy terminates.

Present law provides that the tenant shall furnish the lessor a forwarding address at the termination of the lease, to which such statements may be sent.

Proposed law provides that the lessor shall make an oral or written request and the tenant shall furnish the lessor a forwarding address or an alternate temporary mailing address at the termination of the lease, to which such statements may be sent. Proposed law further provides that if the lessor fails to receive a response from the lessee within 30 days from such request, the lessor may remove the deposit from the account and retain it free from any claim of the tenant or any person claiming on the tenant's behalf.

Proposed law provides that any landlord or lessor of residential property requiring an advance or deposit of money to be furnished by a tenant or lessee prior to occupancy as provided for in proposed law shall deposit all tenants' security deposits in an account used only for that purpose, in any bank or other lending institution subject to regulation by the state of Louisiana or any agency of the United States government.

Proposed law provides that no landlord shall be entitled to retain any portion of such an advance or deposit of money if that advance or deposit of money was not deposited in an account as required by proposed law and an itemized statement of damages is not provided as required by proposed law.

Proposed law further provides that, should a tenant or lessee vacate the premises with unpaid rent or other amounts due and owing, the landlord or lessor may remove the deposit from the account and apply the monies to the unpaid debt. Proposed law further provides that all landlords or lessors of residential property shall be required to notify their tenants or lessees at the time such persons sign the lease and submit a security deposit of the location of the separate account required to be maintained pursuant to proposed law, but shall not be required to provide the account number to such persons, nor shall they be required to provide such information to a person who is a prospective tenant.

Present law provides that the willful failure to comply with present law relating to security deposits shall give the tenant or lessee the right to recover actual damages or \$200, whichever is greater, from the landlord or lessor, or from the lessor's successor in interest.

Proposed law provides that the willful failure to comply with proposed law relating to security deposits shall give the tenant or lessee the right to recover damages in an amount equal to twice the amount of the wrongfully withheld security deposit from the landlord or lessor, or from the lessor's successor in interest.

Present law provides that failure to remit within 30 days after written demand for a refund shall constitute willful failure.

Proposed law provides that failure to remit within 14 days after the date the lease terminates shall constitute willful failure.

Proposed law provides relative to the right to terminate a lease in domestic abuse cases.

Proposed law provides that a tenant or lessee who provides written notice to the lessor that such tenant or lessee or their child may be a victim of domestic abuse, dating violence, or family violence from a named person if the tenant or lessee or their child remains on the leased premises shall thereafter be relieved from any further obligations under a residential lease agreement if the written notice provided to the lessor includes any of the following:

- (1) A certified copy of a protective order or injunction issued after a contradictory hearing that protects the tenant or lessee or their child from the person named in the written notice.
- (2) A certified copy of a protective order or injunction from another jurisdiction, issued pursuant to that jurisdiction's laws relating to domestic violence, that protects the tenant or lessee or their child from the person named in the written notice.
- (3) A law enforcement agency record documenting the domestic abuse, dating violence, or family violence or certifying that the tenant or lessee or their child is a victim of domestic abuse, dating violence, or family violence.
- (4) Medical documentation provided by a health care provider of the domestic abuse, dating violence, or family violence.
- (5) Certification provided by a domestic violence service provider or the director of a designated domestic violence agency that the tenant or lessee or their child is a victim of domestic abuse, dating violence, or family violence.
- (6) Documentation or certification provided by a licensed social worker that the tenant or lessee or their child is a victim of domestic abuse, dating violence, or family violence.

Proposed law provides that no advance written notice to lessor of termination shall be required for a lease terminating pursuant to proposed law, nor shall such termination constitute grounds for a complaint or action by the lessor or any credit bureau or collection agency for any amounts or penalties or damages claimed due to such termination.

Proposed law further provides that a tenant fulfilling the requirements of proposed law is entitled to the full return of any security deposit, if the tenant has otherwise complied with the requirements of the lease. Proposed law further provides that a lessor may retain all or any portion of the security deposits that is reasonably necessary to remedy unreasonable wear or damage to the premises.

Present law provides that the local housing authority may not terminate the tenancy of a household or a resident or terminate any other assistance provided by the authority under present law for reasons of domestic abuse, dating violence, or family violence committed against the head of household, a member of household, or a resident. Present law further provides that the local housing authority may terminate the tenancy of or any other assistance provided to the perpetrator of the domestic abuse, dating violence, or family violence.

Proposed law retains present law.

Proposed law further provides that the local housing authority shall allow a tenant to transfer to another available and safe dwelling unit administered by the local housing authority if the tenant or lessee or their child is a victim of domestic abuse, dating violence, or family

violence, and if the tenant:

- (1) Expressly requests the transfer; and
- (2) Is threatened with domestic abuse, dating violence, or family violence if the tenant or lessee or their child remains within the same dwelling unit administered by the local housing authority; and
- (3) Provides the housing authority with any of the following:
 - (a) A certified copy of a protective order or injunction, issued after a contradictory hearing, that protects the tenant or lessee or their child from the person named in the written notice.
 - (b) A certified copy of a protective order or injunction from another jurisdiction, issued pursuant to the jurisdiction's law relating to domestic violence that protects the tenant or lessee or their child from the person named in the written notice.
 - (c) A law enforcement agency record documenting the domestic abuse, dating violence, or family violence or certifying that the tenant or lessee or their child is a victim of domestic abuse, dating violence or family violence.
 - (d) Medical documentation provided by a health care provider of the domestic abuse, dating violence, or family violence.
 - (e) Certification provided by a domestic violence service provider or the director of a designated domestic violence agency that the tenant or lessee or their child is a victim of domestic abuse, dating violence, or family violence.
 - (f) Other documentation or certification provided by a licensed social worker that the tenant or lessee or their child is a victim of domestic abuse, dating violence, or family violence.

Proposed law provides that the local housing authority shall maintain reasonable confidentiality measures to ensure that the location of the dwelling unit of a tenant or lessee or their child is not disclosed to the person the tenant identifies to the local housing authority at the time the transfer is requested as having been the person who committed an act of domestic abuse, dating violence, or family violence against the tenant or lessee or their child.

Proposed law retains present law definitions of domestic abuse, dating violence, and family violence.

Effective August 1, 2014.

(Amends R.S. 9:3251 and 3252, R.S. 40:506, C.C. Arts. 2694 and 2726 and C.C.P. Arts. 4701 and 4733; adds R.S. 9:3262)